

RECEIVED
CENTRAL FAX CENTER

1

JUN 19 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of

Jan Willem Aarts, et al.

OPTICAL SCANNING DEVICE
AND OPTICAL PLAYER
COMPRISING SUCH A
SCANNING DEVICE

Confirmation No.: 1891

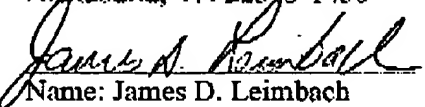
Serial No. 09/904,077

Filed: July 12, 2001

Group Art Unit: 2652

Examiner: Peter Vincent Agustin

CERTIFICATE OF TRANSMISSION
I hereby certify that this correspondence
is being transmitted on this date via
facsimile transmission to (571) 273-8300
AND addressed to:
Mail Stop: Amendment
COMMISSIONER OF PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450


Name: James D. Leimbach
Registration No. 34,374
Date: June 19, 2006

VIA FACSIMILE TRANSMISSION TO (571) 273-8300
Mail Stop: Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REPLY BRIEF UNDER 37 C.F.R. § 41.41

This Reply Brief is being filed in response to the Examiner's Answer mailed
January 11, 2006.

The Commissioner is hereby authorized to charge any fees associated with the
filing of this Reply Brief, including extension fees but excluding issue fees to Account No. 50-
3745, and to credit any overpayments to the same account.

Serial No. 09/904,077

The appellants have received and considered the Examiner's Answer (dated February 17, 2006) to the Appeal Brief filed by the appellants on December 15, 2005.

Grounds of Rejection to be Reviewed on Appeal

The rejection of appealed claims 1-20 under the provisions of 35 U.S.C. §102(b) as being anticipated via over *Schell et al.* (U.S. Patent No. 6,058,081)

The Examiner's Answer on page 3 through the top of page 9 contains the same arguments as presented in the Final Office Action mailed May 12, 2005. These arguments have been addressed in the Appeal Brief filed December 15, 2005 by the appellants. Therefore, this Reply Brief will address the arguments that are presented by examiner in the Response to Arguments section, beginning on page 12.

The Response to Arguments section of the Examiner's Answer begins with a statement that the language "a magnetic structure that extends entirely across the coil system ... is not the claimed language." The appellants point out that this assertion made by the examiner is incorrect. For example, appealed claim 1 defines "a magnetic system which is arranged in a fixed position with respect to the stationary part, characterized in that the magnetic system, viewed parallel to an X-direction extending perpendicularly to the optical axis, is arranged in its entirety next to and outside the coil system". The appellants, respectfully, point out that the X-direction is defined by appealed claim 1 as being perpendicular to the optical axis. The X-direction is clearly and consistently illustrated in Figures 3A, 3B, 4, 5A, 5B, 5C and 6 of the drawings as originally submitted with the present application for invention. Therefore, the assertions by the examiner that "a magnetic structure that extends entirely across the coil system ... is not the claimed language," is clearly in error.

Appealed claim 9 defines "the magnetic system, viewed parallel to an X-direction extending perpendicularly to the optical axis, is arranged in its entirety next to and outside the coil system."

09/904,077

Appealed claim 16 defines "the magnetic system, viewed parallel to an X-direction extending perpendicularly to the optical axis, is arranged in its entirety next to and outside the coil system."

Appealed claims 1, 9 and 16 are the only independent claims contained in the present application for invention. Therefore, all the appealed claims define the subject matter "the magnetic system, viewed parallel to an X-direction extending perpendicularly to the optical axis, is arranged in its entirety next to and outside the coil system."

The First Interpretation beginning on page 12 of the Examiner's Answer should be given no weight for the following reasons. The First Interpretation argues that that the first and second part of the magnetic system of *Schell et al.* extent entirely across the pair of coil portions of the coil system in the Z direction. The appellants, respectfully, assert that this is not what is defined by the appealed claims. The appealed claims define "the magnetic system, viewed parallel to an X-direction extending perpendicularly to the optical axis, is arranged in its entirety next to and outside the coil system." The Z-direction of *Schell et al.* is not perpendicularly to the optical axis but is in fact parallel to the optical axis.

The Second Interpretation beginning on page 13 of the Examiner's Answer should be given no weight for the following reasons. The examiner has made a statement that is again clearly not true. That examiner states that that the pair of portions in Figure 26 of *Schell et al.* are within the length of the magnetic elements 2-22 and 2-24. A cursory look at Figure 26 of *Schell et al.* supplied in the Examiner's Answer clearly shows that this is not true. The magnetic elements 2-22 and 2-24 do not extent entirely across the pair of portion 2-18 and 2-20 of the coil system illustrated in Figure 26 of *Schell et al.*

For the above stated reasons, the rejections of appealed claims 1-20 is clearly in error.

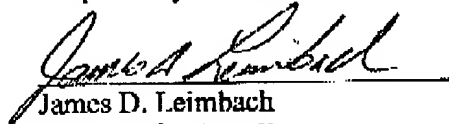
09/904,077

Conclusion

In summary, the examiner's rejections of the claims are believed to be in error for the reasons explained above. The rejections of each of claims 1-20 should be reversed.

The Commissioner is hereby authorized to charge any fees associated with the filing of this Reply Brief, including extension fees, to Account No. 50-3745, and to credit any overpayments to the same account.

Respectfully submitted,



James D. Leimbach
Attorney for Appellants
Registration No. 34,374

Telephone: 585-381-9983
Facsimile: 585-381-9983

09/904,077